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May 31, 2012

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VIA FEDERAL EXPRESS

Anthony Herman, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 6554

Dear Mr. Herman:

This firm represents Friends of Weiner ("FOW" or the "Committee"), the principal federal campaign committee of former Congressman Anthony Weiner, in the above-captioned matter. We are also appearing on behalf of FOW's Treasurer, Nelson Braff (collectively, "Respondents").

For the reasons set forth below, no action is warranted by the Commission in response to the complaint numbered MUR 6554. Respondents have not committed any violation of statute or regulation over which the Commission has jurisdiction. Instead, this matter is simply a belated attempt by the complainant to leverage a payment from the defunct campaign committee of a former Member of Congress, when no payment is in fact owed. The complainant never had a contract with the Committee. She apparently never billed the Committee for services until the Congressman's waning days in office. And, she is seeking to use the Commission's complaint process to buttress a baseless – and substantially time-barred – commercial claim.

The Committee relied on FEC staff guidance in handling this situation. Prior to FOW's most recent periodic disclosure filing, after the complainant had threatened to make the FEC filing she has now made, representatives of FOW contacted FEC staff and were advised that, in these circumstances, no disclosure of any purported liability was required. FOW appropriately relied on that staff advice. For that reason, as well as for the reasons set forth below, Respondents respectfully submit that no Commission action is warranted.

As an initial threshold matter, substantial portions of the complainant's claims against FOW are time-barred under any applicable statutes of limitations. Complainant purports to be owed for services rendered from 2001 – 2003 and 2005 – 2009. Under

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the five year statute of limitations governing the Commission's enforcement powers, 28 U.S.C. § 2462, complainant's claims from 2001 through May 2007 cannot form the basis for any Commission action. Indeed, under the three-year statute of limitations governing express or implied unwritten contract claims under Virginia law, Va. Code Ann. § 8.01-246(4), all or virtually all of her monetary demand is time-barred.¹ Even if New York's six-year contract statute of limitations under CPLR § 213(2) were to apply, a substantial portion of complainant's claim would still be time-barred. Absent any actionable commercial claim, there would simply be no basis in law or logic for requiring FOW to report complainant's claim as a committee liability.

Even with respect to a portion of complainant's monetary claim that may fall within an applicable statutes of limitations, if any, there is no basis for any liability and therefore no need for FOW to have disclosed her claim as a Committee liability. The complainant has not even alleged that she ever had a contract with FOW and, indeed, they never were in privity. FOW did not hire complainant and never directed or supervised her services. To the extent that she performed services for the benefit of FOW, she did so at the request and under the direction of a law firm that represented FOW. Thus, the PEC's definition of a commercial vendor – viz., "persons providing goods or services to a candidate or political committee whose usual and normal business involves the sale, rental, lease or provisions of those goods and services," 11 C.F.R. § 116.1(c) – does not on its face apply when, as here, a campaign committee relies on counsel for its "unusual and normal" compliance work and counsel, not the campaign committee, turns to a consultant for assistance with compliance work. In these circumstances, FOW had no contractual or "commercial vendor" relationship with the complainant and thus had no obligation to disclose her claim as a liability in its FEC disclosure filing.

The timing of complainant's monetary demands against FOW reveals this matter for what it is. I am advised that FOW staff first heard from complainant seeking payment in June 2011, when Mr. Weiner was embroiled in a difficult public controversy, on invoices backdated to September 2, 2003 and August 21, 2009, purportedly for work done on 2000 and 2004 audits. Complainant sent her formal demand letter on June 17, 2011, the day after Mr. Weiner resigned his Congressional seat. That timing shows this to be nothing more than a strike suit. We respectfully submit that it would not be prudent for the Commission to permit its complaint process to be utilized in this manner in connection with what is nothing but a commercial claim – especially when it is a commercial claim so lacking in merit.

For all of these reasons, Respondents respectfully request that the General Counsel recommend to the Commission that no violation has been committed and that MUR 6554 should be dismissed.

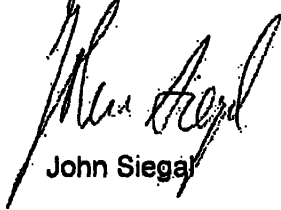
¹ Only \$1,402.50 of complainant's \$68,336.25 claim purportedly accrued in 2009, and she has provided no information indicating when in 2009 the work was allegedly done, making it impossible to determine whether any of it was performed within the three-year period.

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Respectfully submitted,



John Siegal

cc: Anthony Weiner
Nelson Bragg

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